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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,185	06/01/2001	David M. Stern	0575/64080/JPW/SHS/ALB	2919

7590 03/17/2006

John P. White
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, NY 10036

EXAMINER

SEHARASEYON, JEGATHEESAN

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/872,185	Applicant(s) STERN ET AL.	
	Examiner Jegatheesan Seharaseyon, Ph.D	Art Unit 1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,7-13 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,7-13 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/19/2005 has been entered. An action on the RCE follows.

2. Claims 1-3 and 7-18 are pending. Claims 1-2 and 14-15 have previously been withdrawn as drawn to unelected invention. Claim 3 has been amended. Therefore, claims 3, 7-13 and 16-18 are pending and are under examination.

3. The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action.

Interview

4. Applicants acknowledge the interview of October 5, 2005. The Office indicated that it would consider references that would suggest that there was no reasonable expectation of success in treating inflammation by inhibiting RAGE/AGE or EN-RAGE interaction.

Priority

5. It is noted that this application appears to claim subject matter disclosed in prior Applications of U.S. Serial No. 09/755,235, filed November 22, 1996; and U.S.

Serial No.08/948,131, filed October 9, 1997; and PCT International Application No. PCT/US99/23303 which is continuation-in-part of U.S. Serial No. 09/263,312, filed March 5, 1999 which is a continuation-in-part of U.S. Serial No. 09/167,705, filed October 6, 1998. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). **For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications.** It is noted that the Applicants have provided the priority information in the specification. However, the priority information is required to be the first sentence of the application. In addition, Applicants are required to provide the relationships to claimed applications and the current status.

Claim Rejections - 35 USC § 103, withdrawn

6. The Liotta et al. reference provided under 37 CFR 1.132 filed 12/19/2005 is sufficient to overcome the rejection of claims 3 and 7-11 under 35 U.S.C. 103(a) as being obvious over Morser et al. (U. S. Patent No: 5, 864,018) in view of Ritthauer et al. (1995). Although, the reference is directed to cancer treatment strategies, the mechanism is relevant to inflammation. As Applicants have indicated there is some uncertainty, absent experimentation, whether inhibiting RAGE/EN-RAGE interaction can

be used to treat disorders. In addition, Applicants have also amended the claims to no longer recite AGE interaction with RAGE.

7. The rejection of rejection of claims 12, 13 and 16-18 under 35 U.S.C. 103(a) as being obvious over Morser et al. (U. S. Patent No: 5, 864,018) in view of Ritthauer et al. (1995) and Baker et al. (U. S. Patent No: 5, 998,408) is also withdrawn for reasons set forth above in paragraph 6.

Double Patenting

8. Provisional rejection of claims 3-11 and 16-18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 47, 50, 55-60, 62-65 and 67 of copending Application No. 09/167705 in view of Morser et al. (U. S. Patent No: 5, 864,018) and of Ritthaler et al. (1995) and further in view of Baker et al. (U. S. Patent No: 5, 998,408) is maintained for reasons set forth previously in Office Actions dated 6/17/03, 3/04/04, 9/14/04 and 4/12/05. Claims 17 and 18 have been added to the rejection because it had been previously omitted inadvertently.

Relevant Art

9. The art made of record and not relied upon is considered pertinent to applicant's disclosure. Hofmann et al. (1999), Cell, Vol. 97, pp. 889-901. The reference discloses EN-RAGE/RAGE interactions. It also discloses that the blocking of this interaction will affect inflammation. However, it is not considered prior art because the instant application claims and enjoys an earlier priority date of 10/6/1998 based on its continuity to application 09/167, 705.

Conclusion

10. In addition to elected invention, previously withdrawn claims 1-2 and 14-15 are also present in the instant Application. Applicants are required to cancel the noted claims or take other appropriate action (37 CFR 1.144). No claims are allowable. Upon Applicants filing a terminal disclaimer over Application No. 09/167, 705 the claims should be in condition for allowance.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jegatheesan Seharaseyon, Ph.D whose telephone number is 571-272-0892. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**CHRISTINE J. SAOUD
PRIMARY EXAMINER**

Christine J. Saoud